

NTSB Order No. EA-4011

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 1st day of November, 1993

Docket SE-13274

and his Airline Transport Pilot and Flight Instructor certificates (No. 343403991), for his alleged violations of section 67.20(a)(1) of the Federal Aviation Regulations, "FAR," 14 CFR Part 67.² For the reasons discussed below, the appeal will be denied.³

The February 26, 1993 Emergency Order of Revocation,⁴ as amended by unopposed motion filed September 15, alleges, among other things, the following facts and circumstances with respect to the respondent:

4. On your January 28, 1993 application for an airman medical certificate, you responded in the negative to Question 13 (Has your FAA Airman Medical Certificate ever been Denied, Suspended, or Revoked?), to Question 18m (Mental Disorders of Any Sort) and to Question 18p (Suicide Attempt).

5. On January 2, 1992, you applied for and were issued an FAA First Class Airman Medical Certificate.

6. On your January 2, 1992 application, you similarly responded in the negative to

²FAR section 67.20(a)(1) provides as follows:

"§67.20 Applications, certificates, logbooks, reports, records: Falsification, reproduction, or alteration.

(a) No person may make or cause to be made--

(1) Any fraudulent or intentionally false statement on any application for a medical certificate under this part[.]"

³The Administrator has filed a reply brief opposing the appeal.

⁴It appears that the respondent did not become aware of the emergency order until August 6, 1993, when he was personally served with a copy of it. Earlier efforts to serve the order by mail were unsuccessful for reasons unrelated to our disposition here.

Question 13, Question 18m and Question 18p.

7. On January 9, 1991 and January 18, 1990 you applied for and were issued FAA First Class Airman Medical Certificates.

8. On each application referenced in paragraph 7 you responded in the negative to Question 18 (Has your FAA Airman Medical Certificated ever been Denied, Suspended, or Revoked?) and Question 21p (Attempted Suicide).

9. By Order of the National Transportation Safety Board served on April 28, 1989, the Board affirmed a previous denial of your Airman Medical Certificate [application] for any class (Docket SM-3567, NTSB Order Number EA-2929).

10. In the Order referenced in paragraph 9 you were found to have a medical history and clinical diagnosis of a psychosis. You were given that diagnosis in May, 1983 after an attempted suicide.

11. As a result of the foregoing, you made fraudulent or intentionally false statements on all applications for airman medical certificates referenced above.

12. In reliance on the information you provided in the applications described above, the Federal Aviation Administration issued separate First Class Medical Certificates as you requested.

Respondent did not at the hearing dispute the facts alleged in the order; that is, he did not deny that the three negative responses he had given for the same questions on the four separate applications were contrary to the medical evidence the Administrator introduced in support of his falsification charge.

Respondent nevertheless denied any intent to falsify the applications, claiming that he thought they only sought information for the immediately preceding year. The law judge

did not believe the respondent's exonerating explanation for the historically incorrect answers, which he found to be "simply incredible," and concluded that the respondent had intentionally falsified the applications. I.D. at 39.

While it is evident from the fact of respondent's appeal that he thinks the law judge should have accepted his denial of any purpose to deceive in the way he marked the applications, respondent has not in the documents filed in connection with his appeal, which contain many extraneous, irrelevant, and, occasionally, profane or offensive comments and statements, identified any basis for overturning the law judge's assessment of the truthfulness of his testimony.⁵

ACCORDINGLY, IT IS ORDERED THAT:

1. The respondent's appeal is denied, and
2. The emergency order of revocation and the initial decision are affirmed.

VOGT, Chairman, COUGHLIN, Vice Chairman, LAUBER, HART and HAMMERSCHMIDT, Members of the Board, concurred in the above opinion and order.

⁵Respondent appears to believe that the prior finding that he has a psychosis (of paranoid schizophrenic type) is somehow undermined by his successful, subsequent passing of the four medical certificate applications at issue here. However, assuming, for purposes of argument, that the validity of that finding was still open to challenge, it would not help the respondent in this proceeding, for this case does not involve his actual medical condition, it involves the accuracy of his representations concerning his medical record.